

MONTANA DEPARTMENT OF INSURANCE
MONICA J. LINDEEN
State Auditor
Commissioner of Insurance & Securities
840 Helena Avenue
Helena, MT 59601

NOTIFICATION OF ISSUANCE OF QUALIFIED CHARITABLE GIFT ANNUITIES

Notice to commissioner: A charitable organization that issues or intends to issue qualified charitable gift annuities shall notify the commissioner in writing prior to the date of entering into the organization's first qualified charitable gift annuity agreement and thereafter shall notify the commissioner on March 1 of each year in which the charitable organization issues or intends to issue qualified charitable gift annuities. This Notification expires on the following March 1, pending the submission of a new Notification with the appropriate attachments. It is understood that the Notification must be filed and acknowledged in order for a charitable organization to be qualified to issue charitable gift annuities in Montana.

NAME OF CHARITABLE ORGANIZATION

STREET ADDRESS

MAILING ADDRESS (IF DIFFERENT)

CITY

STATE

ZIP CODE

() _____
PHONE #

() _____
FAX #

FEIN #

Year commenced operations: _____ Year granted Federal tax-exempt status: _____

Purpose of Charitable Organization

Printed Name of Contact Person

() _____
Phone #

In filing this Notification the following Certifications are made:

- () The organization is a charitable organization in good standing as described by either Section 501(c)(3) or 170(c) of the Internal Revenue Code of 1986;
- () The annuities issued by the organization are qualified charitable gift annuities as described by Section 501(m)(5), Section 514(c)(5), Section 1011(b) of the Internal Revenue Code of 1986;
- () That on the date of any annuity agreement the charitable organization has a minimum of \$300,000 in net worth or \$100,000 in unrestricted cash, cash equivalents or publicly traded securities (exclusive of the assets funding the annuity agreement);
- () That on the date of any annuity agreement the charitable organization has been in continuous operation for at least 3 years or is a successor or affiliate of a charitable organization that has been in continuous operation for at least 3 years;
- () That on the date of any annuity agreement maintains a separate annuity fund with at least one-half the value of the initial amount transferred for outstanding annuities;
- () Notice to the Donor is contained in a separate paragraph of the annuity agreement, that a qualified charitable gift annuity is not insurance under the laws of Montana and is not subject to regulation by the Commissioner or protected by an insurance guaranty association;
- () Attached is the most recently completed Annual (Calendar or Fiscal Year) Balance Sheet and Income Statement for the charitable organization.

SIGNATURE OF OFFICER OR DIRECTOR

DATE

PRINTED NAME

TITLE

Part 7

Charitable Gift Annuities

33-20-701. Definitions. In this part, the following definitions apply:

(1) "Charitable gift annuity" means a transfer of cash or other property by a donor to a charitable organization in return for an annuity payable over one or two lives, for the duration of that life or those lives, under which the actuarial value of the annuity is less than the value of the cash or other property transferred and the difference in value constitutes a charitable deduction for federal tax purposes.

(2) "Charitable organization" means an entity described by:

(a) section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(3); or

(b) section 170(c) of the Internal Revenue Code of 1986, 26 U.S.C. 170(c).

(3) (a) "Qualified charitable gift annuity" means a charitable gift annuity, described by section 501(m)(5) of the Internal Revenue Code of 1986, 26 U.S.C. 501(m)(5), section 514(c)(5) of the Internal Revenue Code of 1986, 26 U.S.C. 514(c)(5), section 1011(b) of the Internal Revenue Code of 1986, 26 U.S.C. 1011(b), and the implementing regulations, that is issued by a charitable organization that, on the date of the annuity agreement:

(i) has a minimum of \$300,000 net worth or has a minimum of \$100,000 in unrestricted cash, cash equivalents, or publicly traded securities, exclusive of the assets funding the annuity agreement;

(ii) has been in continuous operation for at least 3 years or is a successor or affiliate of a charitable organization that has been in continuous operation for at least 3 years; and

(iii) maintains a separate annuity fund with at least one-half the value of the initial amount transferred for outstanding annuities.

(b) If the charitable organization cannot meet the requirements of subsections (3)(a)(i) through (3)(a)(iii), the issuance of a qualified charitable gift annuity by a charitable organization must be commercially insured by a licensed insurance company that is qualified to do business in Montana.

History: En. Sec. 1, Ch. 482, L. 2003.

33-20-702. Charitable gift annuity not insurance. (1) The issuance of a qualified charitable gift annuity does not constitute engaging in the business of insurance in this state.

(2) A charitable gift annuity issued before April 24, 2003, is a qualified charitable gift annuity for purposes of this part, and the issuance of that charitable gift annuity does not constitute engaging in the business of insurance in this state.

History: En. Sec. 2, Ch. 482, L. 2003.

33-20-703. Notice to donor. (1) When entering into an agreement for a qualified charitable gift annuity, the charitable organization shall disclose to the donor, in writing, in the annuity agreement, that a qualified charitable gift annuity is not insurance under the laws of this state and is not subject to regulation by the commissioner or protected by an insurance guaranty association.

(2) The notice provisions required by this section must be in a separate paragraph in print size that is not smaller than that employed in the annuity agreement generally.

History: En. Sec. 3, Ch. 482, L. 2003.

33-20-704. Notice to commissioner. (1) A charitable organization that issues qualified charitable gift annuities shall notify the commissioner in writing within 90 days after April 24, 2003, or the date on which it enters into the organization's first qualified charitable gift annuity agreement and shall notify the commissioner on March 1 of each year in which the charitable organization issues qualified charitable gift annuities. The notice must:

(a) be signed by an officer or director of the organization;

(b) identify the organization;

(c) certify that:

(i) the organization is a charitable organization; and

(ii) the annuities issued by the organization are qualified charitable gift annuities.

(2) The organization is not required to submit additional information except:

(a) within 30 days of receipt of a written request, to provide the commissioner with financial documents verifying information that was provided to the commissioner in the notice; or

(b) to enable the commissioner to determine appropriate penalties that may be applicable under 33-20-705.

History: En. Sec. 4, Ch. 482, L. 2003.

33-20-705. Failure to provide required notice. The failure of a charitable organization to comply with the notice requirements imposed under 33-20-703 and 33-20-704 does not prevent a charitable gift annuity that otherwise meets the requirements of this part from constituting a qualified charitable gift annuity. The commissioner may enforce performance of the requirements of 33-20-703 and 33-20-704 by sending a letter by certified mail, return receipt requested, demanding that the charitable organization comply with the requirements of 33-20-703 and 33-20-704. The commissioner may fine the charitable organization in an amount not to exceed \$1,000 for each qualified charitable gift annuity agreement issued until the time that the charitable organization complies with 33-20-703 and 33-20-704.

History: En. Sec. 5, Ch. 482, L. 2003.